IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 11715 OF 2002

Date: 26.10.2005

BETWEEN:

K.S. Kumar

.... PETITIONER

And

Commissioner,

Guntur Municipal Corporation,

Guntur.

.... RESPONDENT

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 11715 OF 2002

ORDER:

The petitioner obtained degree in Bachelor of Architecture from Regional Engineering College, Bhopal in the year 1974. He registered himself as Architect with the Council of Architecture. He is practicing in Guntur Municipal Corporation. He is aggrieved by the proceedings of the respondent Corporation dated 4.5.2002, which purports to cancel the licence issued to the petitioner. Be it also noted that the impugned order was preceded by a show cause notice, to which the petitioner submitted explanation *inter alia* stating that he did not apply and get any licence from the respondent Corporation as alleged, and that he did not violate any of the building bye-laws. The respondent considered the explanation, but without dealing with the questions raised by the petitioner in his representation, passed impugned order.

The respondent Corporation has filed counter affidavit sustaining its action. It is

stated that even if the petitioner is registered under the Architects Act, 1972, he is under obligation to follow the conditions framed by the Corporation in proceedings dated 2.5.2001 as per Building Bye-law No.4.2.1 of the Municipal Corporation Building Bye-laws (for short 'the Bye-laws'), read with Appendix-C. The respondent Corporation conducted survey regarding unauthorized structures in residential apartments and identified 20 apartments constructed in deviation of the approved plans. Out of these, two plans were prepared by the petitioner, and therefore he was issued a show cause notice to submit explanation. The petitioner submitted his explanation, and after conducting enquiry the impugned order has been passed. Nowhere in the counter affidavit, the Commissioner denied that the petitioner did not obtain any licence as per the Building Bye-law No.4.2.3 read with Appendix-C of the Bye-laws.

I have heard the learned counsel for the petitioner and learned Standing Counsel for the Guntur Municipal Corporation. When the petitioner did not obtain any licence as is required by a technical person, there is no question of cancellation at all. The impugned order is therefore vitiated by total non-application of mind. Secondly, the Government of Andhra Pradesh issued G.O. Rt.No.978 Municipal Administration and Urban Development dated 15.11.2001, directing all municipalities and Municipal Corporations in the State not to insist upon separate registration of licence from the Architects, registered with the Council of Architecture under the Architects Act, 1972. Therefore, even if any architect has submitted building plans, which are deviated, the only remedy of the Corporation is to send a report to the Council of Architecture, which is alone the disciplinary authority insofar as the misconduct of architects is concerned. The Municipal Corporation cannot by itself cancel the registration or insist upon any architect to take licence as per the Building Bye-law No.4.2.1 read with Appendix-C of the Bye-laws.

The Writ Petition, subject to above observations, is accordingly allowed with costs.

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(**V.V.S. RAO, J.)**

26th October, 2005

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